

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS
LIABILITY LITIGATION

MDL No. 2419
Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:

All Actions

RWZ
**~~(PROPOSED)~~ ORDER REGARDING THE PROCEDURE FOR
ENTRY OF FINAL JUDGMENTS DISMISSING CLAIMS AGAINST SETTLING
DEFENDANTS IN INDIVIDUAL CASES IN THIS MDL PROCEEDING**

WHEREAS, the Chapter 11 Plan for the New England Compounding Pharmacy, Inc. d/b/a New England Compounding Center was confirmed by the Honorable Henry J. Boroff of the United States Bankruptcy Court for the District of Massachusetts on May 20, 2015 and became effective on June 4, 2015.¹

WHEREAS, on August 26, 2015, this Court entered an Order dismissing claims against entities released as part of that Chapter 11 Plan.²

WHEREAS, it is necessary to establish an efficient process for the clerk of this Court to notice and effectuate the entry of final judgments dismissing those released claims and otherwise update the affected civil action dockets.

IT IS HEREBY ORDERED THAT:

This procedural order addresses two categories of cases in the MDL that have been affected by the Court's previous Order dismissing claims against the settling defendants.

Category 1 covers cases that named only settling defendants and will be dismissed in their

¹ Findings of Fact, Conclusions of Law and Order Confirming the Third Amended Joint Chapter 11 Plan of New England Compounding Pharmacy, Inc., *In Re New England Compounding Pharmacy, Inc. (Debtor)*, 12-BR-19882 (HJB), Dkt. No. 1355.

² Order Dismissing Claims Against Settling Defendants, MDL Dkt. No. 2193.

entirety as a result of the Order. Category 2 covers cases in which some, but not all, defendants were dismissed by the Order. RWZ

1. Category 1: Plaintiffs' counsel shall identify, by November ¹⁹~~4~~, 2015 [10 days], the civil actions in this MDL proceeding where claims against every defendant have been dismissed as a result of the Court's Order. Counsel for each plaintiff(s) shall send a list of such actions, identified by caption and civil action number, to PSC member Patrick Fennell by email:

pfennell@crandalllaw.com. The PSC shall file that list of cases by ECF on or before ~~November~~ ^{December}

²~~13~~, 2015 [9 days]. The Court finds that there is no just reason for delay in entry of judgement and directs the clerk to enter a final judgement of dismissal for all cases on the list provided by the PSC. The clerk shall then enter a judgment of dismissal in the individual civil action docket.

2. Category 2: For all cases where some, but not all, defendants were dismissed by the Court's previous Order, plaintiffs' counsel in each individual civil action (not the PSC) shall file a "Notice of Judgment Dismissing Claims Against Certain Defendants Pursuant to Fed. R. Civ. P 54(b)" in a form substantially similar to the attached example Notice of Judgment by November 7, 2015. The PSC shall make available a Word version of the sample "Proposed Judgment" to plaintiffs' counsel by email. The Notice of Judgment shall identify the settling defendants as named in the operative complaint, note that claims against those defendants have been dismissed, and reference the Court's previous Order. The Court finds that there is no just reason for delay in entry of judgement and directs the clerk to enter a final judgement of dismissal as to these dismissed defendants identified in each Notice of Judgment.

Dated: November 9, 2015

BY THE COURT:

Rya W. Zobel

Hon. Rya W. Zobel
United States District Judge